

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/008744

International filing date (day/month/year)
15.03.2005

Priority date (day/month/year)
01.04.2004

International Patent Classification (IPC) or both national classification and IPC
E02D29/02

Applicant
WESTBLOCK SYSTEMS, INC.

all/06

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

10/591736
International application No.
PCT/US2005/008744

IP20 Rec'd PCT/PTO 01 SEP 2006

Box No. 1 Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/008744

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2,3,7,12-21,24,29-31, 33, 34
	No: Claims	1, 4-6, 8-11, 22, 23, 25-28, 32
Inventive step (IS)	Yes: Claims	
	No: Claims	2,3,7,12-21,24,29-31, 33, 34
Industrial applicability (IA)	Yes: Claims	1-34
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

PCT/US2005/008744

AP20 Rec'd PCT/PTO 01 SEP 2006

Re Item V.

- 1) Reference is made to the following documents:

D1 : US 6 050 749 A (KHAMIS ET AL) 18 April 2000 (2000-04-18)

D2 : US 5 707 184 A (ANDERSON ET AL) 13 January 1998 (1998-01-13)

D3 : US 5 350 256 A (HAMMER ET AL) 27 September 1994 (1994-09-27)

- 2) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document):

A method for constructing a retaining wall, comprising:

- forming a trench in the ground;
- positioning a plurality of retaining wall blocks side by side to form a lowermost course of blocks spaced above the bottom of the trench and having voids between adjacent blocks; and
- forming a concrete footing in the trench and the voids between adjacent blocks to better resist against outward sliding forces exerted by retained earth at the lowermost course (see column 11, line 42 to column 12, line 55 of D1).

- 3) The subject-matter of independent claims 22 and 25 can also not be regarded as new with respect to D1 (of particular relevance is the fact that the voids of upper rows do not have to be filled with concrete but with soil) (Article 33 (1) and (2) PCT).

- 4) The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 32 is not new in the sense of Article 33(2) PCT.

Document D2 discloses (the references in parentheses applying to this document):

A retaining wall comprising:

- at least a first lower course of retaining wall block assemblies and a second upper course of retaining wall block assemblies, wherein each block assembly comprises a front block positioned at the front of the wall ("facing block" 32), an anchor block disposed in a generally parallel relationship with respect to the front block ("anchor

block" 34), and an elongated trunk block extending between and connected to the front block and anchor block(the anchor block between the facing block and the last of the anchor blocks can be seen as such a trunk block), and wherein each course comprises a plurality of chambers defined between adjacent block assemblies; and a concrete base located in a trench below the first course and extending upwardly into the chambers of the first course to help resist against forces exerted by retained earth at the base of the wall (see claim 19 of D2).

- 5) Document D1, which is considered to represent the most relevant state of the art, discloses a method from which the subject-matter of claim 12 differs in that the footing has a width that is less than the width of the lowermost course.

The problem to be solved by the present invention may therefore be regarded as to provide a method which minimises the excavation work.

This feature is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed. The skilled person would only excavate a trench large enough to withstand the actual forces, this since he knows that excavation and backfilling with e.g. concrete is expensive.

The subject-matter of independent claim 12 can therefore not be regarded as inventive (Article 33(1) and (3) PCT).

- 6) Inasmuch as the features of dependent claims 2-11, 13-21, 23, 24, 26-31, 33 and 34 are not directly known from D1, they obviously concern only minor modifications thereto which come within the customary practice followed by a person skilled in the art and which cannot therefore be regarded as inventive (Article 33 (3) PCT). Consequently, dependent claims 2-11, 13-21, 23, 24, 26-31, 33 and 34 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, involve an inventive step.
- 7) Although claims 1, 12 and 22 resp. 25 and 32 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and

to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

- 8) The independent claims are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
- 9) The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).